

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSEPH DOWNING,

Case No. 2:23-cv-00235-RFB-BNW

Petitioner,

v.

ORDER

BRIAN WILLIAMS,

Respondents.

This habeas matter is before the Court on Petitioner Joseph Downing's failure to comply with the Court's Order (ECF No. 6).

Petitioner initiated this case by submitting a Petition for Writ of Habeas Corpus (ECF No. 1-1) in February 2023, but he did not pay the five dollar (\$5.00) habeas filing fee or file an application to proceed *in forma pauperis* ("IFP") for incarcerated litigants. See 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2. On April 19, 2023, the Court ordered Petitioner to either pay the \$5 filing fee or submit a complete IFP application with all required attachments within 45 days. Petitioner was warned that a failure to comply by (a) submitting a complete IFP application, or (b) paying the filing fee would result in the dismissal of this action without prejudice and without further advance notice. Id. The 30-day deadline expired in June 2023. To date, Petitioner has not filed a completed IFP application, paid the \$5 filing fee, requested an extension of time, or taken any other action to prosecute this case.

IT IS THEREFORE ORDERED:

1. Petitioner Joseph Downing's Petition for Writ of Habeas Corpus (ECF No. 1-1) is DISMISSED WITHOUT PREJUDICE based his on failure to comply with the Court's Order (ECF No. 6) or the Local Rules of Practice.
2. Petitioner is denied a certificate of appealability, as jurists of reason would not find dismissal of the petition for the reasons stated herein to be debatable or wrong.
3. The Clerk of Court is instructed to add Nevada Attorney General Aaron D. Ford as

counsel for Respondents. No response is required from Respondents other than to respond to any orders of a reviewing court.

4. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Clerk of Court will file the Petition (ECF No. 1-1), direct informal electronic service upon Respondents, and provide to Respondents an electronic copy of all items previously filed in this case by regenerating the Notice of Electronic Filing to the office of the AG only.
5. The Clerk of Court is instructed to enter final judgment accordingly and close this case.

DATED: January 10, 2024.

A handwritten signature in black ink, appearing to be 'RFB', written over a horizontal line.

RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE